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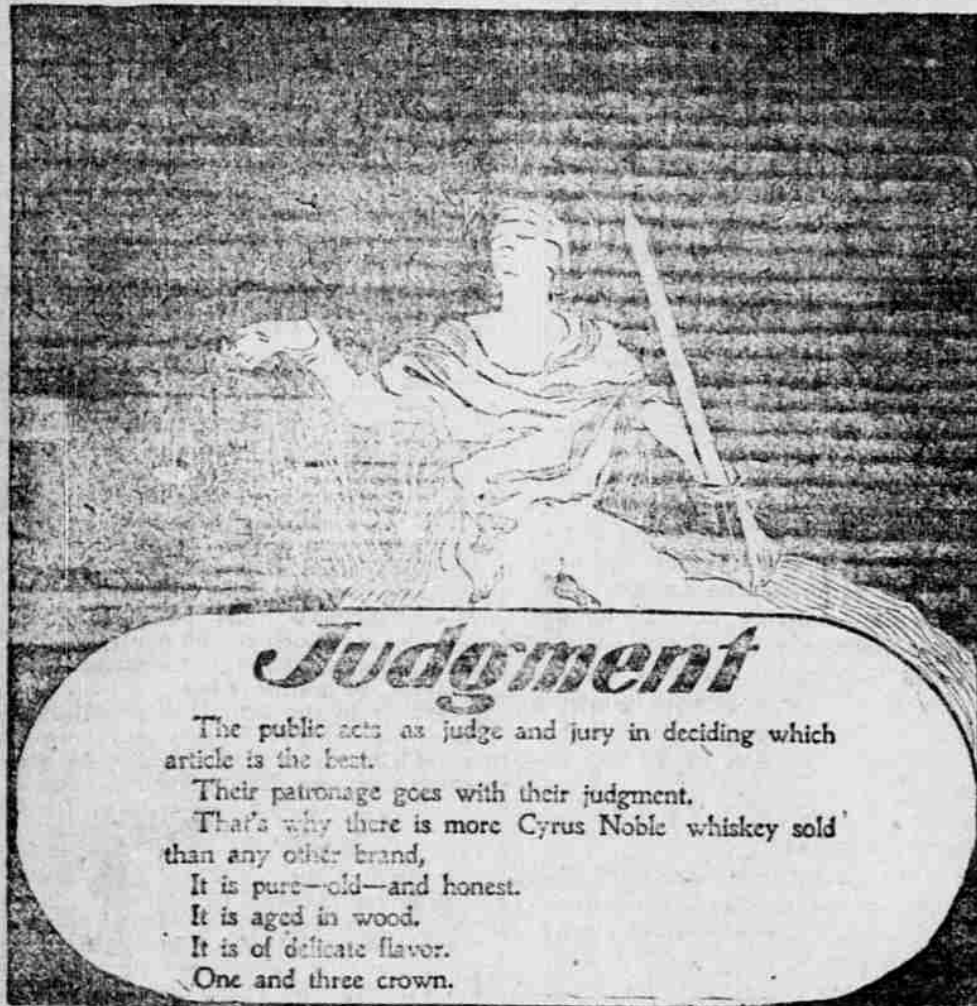
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That's why there is more Cyrus Noble whiskey sold than any other brand.
It is pure—old—and honest.
It is aged in wood.
It is of delicate flavor.
One and three crown.

W. C. PEACOCK & CO., Ltd
SOLE AGENTS FOR HAWAII TERRITORY.

EXECUTIVE COUNCIL

Opinion Given on
Thousand Acre
Limit.

MUD FLATS MAY
BE RECLAIMED

Plan to Turn Kakaako and Kewalo
Into Boating Lagoon and
Beach.

At the Executive Council meeting yesterday morning, the matter of reclaiming Kewalo and Kakaako came up for consideration.

The plan is to reserve a strip about eighty or one hundred feet wide makai of the beach road, then from the water's edge is to be a gradual slope to make a sand beach for bathing, until a depth of eight or ten feet is reached, the mud and coral to be taken out to a depth of eight or ten feet over an area of between 600 and 700 acres, retaining untouched, the outer reef for several hundred feet, as a protection from storms and sharks. This will make a large lagoon of pure water suitable for fishing, boating and swimming, instead of the present insanitary and unsightly mud flats. The material taken is to be used in filling up and putting into sanitary condition the lowlands lying opposite and extending in the direction of Waikiki for some two or three miles, so far as arrangements may be made with land owners.

This improvement will be without expense to the Territory; it is expected that the right to take material from the reef below low water mark will be put up at public auction at an upset price of one cent per cubic yard, together with the privilege of conveying the same across the beach road to the lands to be filled in.

This matter has been under consideration for some time, and it is understood that Colonel Stone of San Francisco, is prepared to bid for the privilege, and to spend some hundreds of thousands of dollars in carrying out the undertaking.

It was the unanimous opinion, of the meeting, that the enterprise would be a great benefit to Honolulu, and to the Territory, in vitally improving the sanitary condition of the city, in greatly adding to land values, and to the value of the beach, both for pleasure and for fishing purposes.

Mr. Wray Taylor brought up the matter of the importation of diseased oranges, saying that he had ascertained that condemned oranges which could not be sold or exposed for sale in California, were being shipped to Honolulu in considerable quantities. It was the sense of the meeting that the importation of this fruit should be closely watched and all diseased oranges destroyed.

The exchange of the government's right, if any, in two acres of land in Waimea, Hawaii, for public right of way for a new road laid out by Mr. Bruner, was recommended.

Attorney-General Dole submitted an opinion that lease-holds are not included in that portion of section 55 of the Organic Act, which provides that no corporation, domestic or foreign, shall acquire or hold real estate in Hawaii in excess of 1000 acres. The opinion is as follows:

"I have the honor, at your request, to submit the following opinion, as to whether leaseholds are included in that portion of section 55 of the Organic Act, which provides, 'That no corporation, domestic or foreign, shall acquire and hold real estate in Hawaii in excess of 1,000 acres; and all real estate acquired or held by such corporation or association, contrary hereto, shall be forfeited and escheat to the United States. But existing vested rights in real estate shall not be impaired.'"

"Acquire and Hold." In plain Anglo-Saxon, acquire means to get, and hold means to keep. The distinction between acquiring and holding is clearly and sharply drawn by the Supreme Court of the United States in Runyon vs. Lessee, etc., 14 Pet. 131.

Acquire. The definitions of acquire given by the Century Dictionary are, in full, as follows: 'To get or gain, the object being something which is more or less permanent, or which becomes vested or inherent in the subject; as, to acquire a title, estate, learning, habits, skill, dominion, etc.; to acquire a steamer, sugar, a brown color by being burned. A mere temporary possession is not expressed by acquire, but by obtain, procure, etc.; as, to obtain (not acquire) a book or loan. 'Descent is the title whereby a man, on the death of his ancestor, acquires his estate by right of representation as his heir at law.' Blackstone, etc. Having been left in a greater degree than others to manage their own affairs, the English people have become self-helping and have acquired great practical ability; H. Spencer, Social Statics 429. 'Men acquire faculties by practice'; W. R. Clifford, Lecture I, 94. The young demand thoughts that find an echo in their real and not their acquired nature, and care very little about the dress they are put in'; Lowell, Study Windows, p. 496."

"The charter of a corporation authorized it to acquire, hold and convey property, real and personal." It was contended that this did not enable the corporation to take by will. The Court said: 'The grant of power here by the charter is, to acquire, hold and convey property, real and personal; and the point is made that the word 'acquire' is not broad enough to include a taking by devise—that the word implies some element of effort on the part of the one who acquires. In judicial opinions, and by law writers, the term is not unfrequently used otherwise, and as confining to property by devise or descent, as well as in any other mode. Thus Blackstone says: 'Descent, or hereditary succession, is the title whereby a man, on the death of his ancestor, acquires his estate by right of representation as his heir at law'; 2 Blackstone Commission, 591. We have no doubt that the power granted to acquire property is broad enough to enable the corporation to take by will.' Female Academy vs. Sullivan, 115 Ill. 339.

In Bishop vs. Lusk et al., 27 S. W. 307 (Tex.), the Court says: 'Our statute fixing the property rights of husband and wife is as follows: Article 2552, Sayles Civil St., 'All property acquired by either husband or wife during the marriage, except that which is acquired by gift, devise or descent, shall be deemed community property of the husband and wife, and, during the coverture, may be disposed of by the husband only. If this land was acquired during the coverture of W. M. Sloan and his first wife, then they owned it in common.'"

A Vermont statute declared that "all property and rights of personal action acquired by any married woman during coverture, by inheritance or distribution, shall be held to her sole and separate use." In construing this statute the Court said: (White vs. Waite, 47 Vt. 59) "While the right to a distributive share in her father's estate became vested in the daughter immediately upon the father's decease, and she became vested of an undivided portion of the property of the estate, subject to the rights of the administrator, to use a part of the same for the payment of the debts and expenses of administration, yet the particular property did not become absolutely vested in her until the decree of the Probate Court, making distribution of the estate, became absolute. Until distribution, she had no right as against the administrator or other heirs, if such there were, to the specific personal property which was afterwards received from the estate. When the decree distributing the estate became absolute, she, in the language of the Act, 'acquired' the specific articles of personal property decreed to her, and the right to a personal action for the recovery of the sum of money ordered to be paid her."

Held. Among the definitions of hold given in the Century Dictionary are the following: 'To have and retain as one's own; to have with title to; own; as, to hold a mortgage.'"

An Indiana statute provided that all persons 'holding lands' might have partition. The Court said: 'We do not construe the word 'holding' thus used as requiring actual occupancy, but as equivalent to owning or having title to lands, etc.'; Godfrey vs. Godfrey, 17 Ind. 8.

In Jack vs. Walker, 78 Federal Reporter 140, the Court said: 'In Witsell vs. Charlestown, 7 S. C. 95, it was decided that 'as a technical term, 'hold' embraces two ideas—the of actual possession of some object of dominion or property and that of being invested with legal title or right to hold or claim such possession.' A similar ruling was made in Hurst vs. Hurst, 7 W. Va. 297. It was recognized, however, in Witsell vs. Charlestown, that the interpretation of the word might be so controlled by the context as to require that it be construed to signify to have in possession or under control merely."

The word "hold" in the provision of the Organic Act under consideration is not "so controlled by the context as to require that it be construed to signify to have in possession or under control merely." On the contrary, the context signifies ownership.

Although neither the word acquire nor the word hold may apply conclusively and exclusively to property, it appears from the foregoing definitions and authorities that both words are consistent with ownership and imply ownership.

Real Estate. "No corporation, domestic or foreign, shall acquire and hold real estate in Hawaii in excess of 1,000 acres."

The elementary, standard text books and the definitions accepted by English and American courts for centuries appear to put beyond question the proposition that leaseholds are personal property, not real estate.

Real property or real estate is defined by Bouvier as: "That which consists of land and of all rights and profits arising from and annexed to land of a permanent, immovable nature. In order to make one's interest in land real estate, it must be an interest not less than for the party's life, because a term of years, even for a thousand years, perpetually renewable, is a mere personal estate."

"There are two requisites to make a fief or hereditary," says Blackstone, book 2, chapter 24, "duration as to time, and immobility with regard to place; whatever wants either of these qualities is not, according to the Normans, an hereditary or fief; or, according to us, is not a real estate; the consequence of which on both laws is, that it must be a personal estate, or chattel. Chattels therefore are distributed by law into two kinds: chattels real and chattels personal. Chattels real, such as Sir Edward Coke, are such as concern, or savour of, the reality; as terms for years of land, wardships in chivalry (while the military tenures subsisted), the next presentation to a church, estates by a statute-merchant, statute staple, elegit, or the like; of all which we have already spoken. And these are called real chattels, as being interests issuing out of, or annexed to, real estates; of which they have one quality, viz., immobility, which denominates them real; but want the other, viz., a sufficient legal indeterminate duration; and this want it is that constitutes them chattels."

"There are interests in lands," says Washburn, "which, from their not being inheritable, are regarded as chattels, though in their nature partaking of the character of the realty, from the property itself being fixed and immovable; such as estates for years, which go to executors or administrators upon the death of the tenant rather than his heirs. Nor is their character affected by the number of years by which their duration is measured, except in those States where inheritability is attached by statute to long terms"; 1 Washburn on Real Property, 20.

"The term real estate means an estate in fee, or for life, in land, and does not comprehend terms for years or any interest short of a freehold"; 3 Kent's Com. 491 (529).

Again, in volume 2, 342 (44), Kent says: "The most leading division of personal property is into chattels real and chattels personal. Chattels real are interests annexed to or concerning the realty; as, a lease for years of land, and the duration of the term of the lease is immaterial, provided it be fixed and determinate and there be a reversion or remainder for some other person. It is only personal estate if it be for a thousand years; falling below the character and dignity of a freehold, it is regarded as a chattel interest, and is governed and descendible in the same manner."

In Steamboat Company vs. McCutcheon et al., 13 Pa. St. 15, the Supreme Court of Pennsylvania says: "The State, by virtue of its transcendent power, may escheat it (the corporation's real estate). But this principle does not apply to a lease, nor to a contract, express or implied, for the purpose of enabling a corporation to carry on its business. A foreigner may undoubtedly lease a house to shelter himself and family, although he cannot hold real estate."

All authorities agree that nothing less than a freehold is real estate. A lessee for years 'acquires and holds' a mere chattel interest, an interest which is personal property. The Organic Act does not change common law definitions. The provision under consideration does not restrict acquiring or holding personal property. Courts are not at liberty to read into the Organic Act what Congress has not put there, either expressly or by fair and reasonable implication. Their role is to say what Congress said, and what did Congress mean, judging what it meant by what it said."

A large proportion of the Senators and Representatives who passed the Organic Act were lawyers, many of them among the most eminent in the United States. In using the phrase "real estate," which has had a definite and settled meaning

After Easter Bargains

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No one realizes that better than we.

You bought heavily here last week—more than you have bought any week since Christmas. Therefore you must have almost supplied your immediate wants. So things must be cheap indeed to make you care to buy more. THE ARE.

What there are, are in small lots only—lots we shall be glad to clear for little money and no profits. But there are golden opportunities for Easter buyers. The movement affects all departments, but there are a few that justify advertising:

\$1 Shirt Waists, 25c.

Both white and colored; all have been a dollar or more; you know our Dollar Shirtwaist. What are left 25c

Ladies' Leather

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White Kids, Blacks and Tans; Silver trimmings in scrolls and nail-heads; a real bargain in stylish, serviceable Belts 10c

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Petticoats, 50c.

Handsome shades; cut full with accordion pleated tucks and dust ruffle; extraordinary price 50c

School Handker-

chiefs, 5c.

Many different sizes and qualities; Hemstitched, lace-trimmed, fancy corners; a good opportunity to lay in a supply against the new school term; all at 5c

Ladies' High

Stock Collars, 25c.

Silk Crepe, Chiffon and Velvet effects; absolutely worth 75c 25c

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VON HOLT BLOCK, KING STREET.

for centuries, known to every law student and to almost every intelligent business man, the members of Congress must be presumed to know what it meant and to have meant what they said.

Congress might have said: No corporation shall acquire and hold, by lease or otherwise, any interest in more than a thousand acres of real estate in Hawaii. But it didn't. Congress might have said: No corporation shall cultivate, use or occupy more than a thousand acres of land in Hawaii. But it didn't.

Even if the provision in question, in so far as it relates to leases, should not be construed as I have suggested, it seems to me that judicial legislation could not go the extreme length of declaring leases for such short terms as five years to be acquiring and holding real estate.

I am of the opinion that the Territorial Government has lawful authority to lease agricultural lands for terms not exceeding five years, by public auction to the highest bidder, although such bidder may be a corporation owning more than a thousand acres of land."

BAKING POWDER.

The profits on some of the well known high-priced baking powders are enormous, and the many different and misleading ways of advertising in nearly all cases, would ordinarily make the consumer believe that unless he pays a high price he receives an inferior baking powder. Their principal argument is against so-called alum baking powders.

In the K. C. baking powder, put up by the Jaques Manufacturing Company, of Chicago, there is 3 per cent alum, which is entirely evaporated when cooked in bread or cake, leaving nothing but the phosphate property in the article consumed; or, in other words, absolutely pure. In many of the well advertised high-priced baking powders is contained Rochelle salts, which is far more injurious than a baking powder which originally contains a 3 per cent ingredient of alum. The K. C. baking powder has been upheld by all State authorities, and while the baking powder trust has several times tried to injure its reputation, both through the boards of health or courts, they have invariably failed to accomplish their end.

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Not the kind that is manufactured for appearance, but a towel that is made for wear and hard usage; the warp is double threaded, the nap close and solid; size 4x22 inches on special sale 15c

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Broken lots, all styles, Men's, Boys', Ladies'; while they last 5c

New Dimities, 15c.

Quality extra; colors fast; patterns dainty; styles beautiful 15c

Mens' Balbriggan
Shirts and Drawers 35c

Made to retail for the summer trade for 75c; could not be had in New York for this money; three pieces for \$1, or each 35c

Mens' Club Ties, 25c

A small lot, but newest styles; only two to a customer 25c

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